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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,573

11/22/2003

Belle L. Chou

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08/21/2009

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EXAMINER

VU, JAKE MINH

ART UNIT

PAPER NUMBER

1618

MAIL DATE

DELIVERY MODE

08/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/719,573	Applicant(s) CHOU, BELLE L.	
	Examiner Jake M. Vu	Art Unit 1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 24-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/27/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt is acknowledged of Applicant's Amendment filed on 05/07/2009; and Information Disclosure Statement filed on 04/27/2009.

- Claims 1, 7 and 18 have been amended.
- Claims 1-31 are pending in the instant application.
- Claims 24-31 have been previously withdrawn from consideration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 13-17 rejected under 35 U.S.C. 102(b) as being anticipated by USALA (US 5,236,703) **are maintained** for reasons of record in the previous office action filed on 04/21/2008, 01/07/2009 and as discussed below.

Applicant argues that Usala does not disclose a disposable protective glove wherein, a "second layer formed of a glove material without the antimicrobial agent from the first layer therein the second layer..." Usala describes single or multilayered surgical gloves, wherein the latex substrate incorporates a "control releasable" antimicrobial agent that "when in contact with a polar liquid ... prevent[s] contamination, transmission or penetration by pathogens". (Usala, col. 3, lines 56-60, 64-65). More importantly, each layer of the multilayer article of Usala may have "different amounts of the agent in each

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layer, and accordingly different release rates for each layer." (Usala, col. 4, lines 20-22). In contrast to claim 1, Usala thus teaches of the same antimicrobial agent being present in different amounts in each layer of the multilayer article. The Examiner finds this argument unpersuasive, because as stated by Applicant the Usala may have "different amounts of the agent in each layer" and disclosed by USALA that "for the very small group of people having a mild allergic reaction to povidone iodine, the above glove construction could be reversed to place the no release substrate on the inner surface" (see col. 4, line 54-56); thus, USALA inherently disclosed to make the inner surface having a different amount, such as zero amount of povidone iodine, to prevent allergic reaction.

Applicant argues that Usala contains the antimicrobial agent of the first layer, because it is made by "using aged mixtures in which substantially all the povidone-iodine is chemically bound with the latex." (Usala, col. 4, lines 48-50). The Examiner finds this argument unpersuasive, because USALA also teaches using other conventional methods (see col. 4, line 40) similar to Applicant's glove, wherein the inner layer at least does not include as high a proportion of antimicrobial agent of the outer (see specification at [0063]).

Applicant argues that claim 1 recites a "second layer configured to resist, when the glove is worn, penetration by the anti-microbial agent and thereby to resist contact between the anti-microbial agent with the hand in part." Usala fails to teach this limitation. The Examiner finds this argument unpersuasive, because any barrier between the first layer and the hand would inherently "resist penetration by the

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antimicrobial agent with the hand". In this instance, USUALA teaches using a barrier with no release substrate on the inner surface to prevent allergic reaction with the antimicrobial (see col. 4, line 54-59).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, 10, 13-17 rejected under 35 U.S.C. 103(a) as being unpatentable over MILNER (US 5,031,245) in view of FECHNER et al (US 7,241,459), USALA (US 5,236,703), and WOLLMANN et al (US 3,793,059) **are maintained** for reasons of record in the previous office action filed on 04/21/2008, 01/07/2009 and as discussed below.

Applicant argues that for reasons discussed above USALA does indeed contain povidone iodine within the material. The Examiner finds this argument unpersuasive for the reasons discussed above.

Applicant argues that while Fechner teaches that Triclosan may have allergic reactions, it also teaches of other antibacterially and fungicidally acting additives for polymers without harmful side effects. Thus one skilled in the art of making gloves with Triclosan in it would naturally think of using Fechner's new compound to contact the hand as opposed to the Applicant's claimed "second layer formed of a glove material

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without the antimicrobial agent from the first layer therein the second layer" as configured to resist penetration by the antimicrobial agent and contact with the hand. The Examiner finds Applicant statement to be true; however, it is not persuasive, because in view of USALA (see USALA at col. 4, lien 54-59), it would have also been obvious to use a barrier layer to prevent expose allergic to the triclosan.

Claims 1-23 rejected under 35 U.S.C. 103(a) as being unpatentable over MILNER (US 5,031,245) in view of FECHNER et al (US 7,241,459), USALA (US 5,236,703), WOLLMANN et al (US 3,793,059) and CHOU (US 2003/0204893) **are maintained** for reasons of record in the previous office action filed on 04/21/2008, 01/07/2009 and as discussed below.

Applicant argues that the missing elements which USALA fails to provide are still not provided. The Examiner finds this argument unpersuasive, because USALA provided the missing elements as discussed above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephonic Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jake M. Vu whose telephone number is (571)272-8148. The examiner can normally be reached on Mon-Tue and Thu-Fri 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jake M. Vu/
Primary Examiner, Art Unit 1618